

REMARKS

Reconsideration of the application is respectfully requested. Claims 1-16 are pending and at issue.

Claims 1-16 have been rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,250,282 to Kresge et al. ("the '282 patent").

In the November 3, 2003 Office Action, the Examiner contends that "[i]t is well known in the art that magnesium chloride is solubilized in an alcohol," and refers to two references cited in the present specification, namely U.S. Patent No. 4,421,674 and EP00936A (Office Action, p. 3). The Examiner further contends, "because the x-ray diffraction spectra are taught by the prior art[,] the compound has the same molecular structure and is inherently present" (Office Action, p. 3).

The magnesium chloride products disclosed in U.S. Patent No. 4,421,674 and EP00936A are prepared by dissolving the magnesium chloride in alcohol and dealcoholizing, and do not include anhydrous α -magnesium chloride. Upon dissolution in alcohol, the α -magnesium chloride described in U.S. Patent No. 4,421,674 and EP00936A loses its original crystal structure. See, e.g., double-spaced substitute specification: p. 2, lines 17-18. Even after removing the alcohol, the magnesium chloride does not return to its original α crystal structure. See, J. C. Bart et al., *J. Mater. Sci.*, vol. 30, p. 2818, col. 2, line 6 from the bottom (a copy of which was attached to the March 3, 2004 Response as Exhibit A).

Contrary to the Examiner's statements in the Office Action, the presently claimed magnesium chloride based carrier shows, *inter alia*, the characteristic peaks of anhydrous α -magnesium chloride. This is described by the Declaration of Zhenhua Jing submitted

herewith. Figure A in the Declaration is an X-ray powder diffraction (XRPD) spectrum of anhydrous α -magnesium chloride. Several characteristic peaks of anhydrous α -magnesium chloride are identified by asterisks in Figure A. Example 3 of the present application (Carrier C) also exhibits these same characteristic peaks (see Figure B in the Declaration). Accordingly, the presently claimed magnesium chloride carrier, which shows, *inter alia*, the characteristic peaks of anhydrous α -magnesium chloride is different than those disclosed in U.S. Patent No. 4,421,674 and EP700936A, each of which do not include anhydrous α -magnesium chloride.

Conclusion


In view of the above remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining, which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,



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